

REMARKS

Claims 1-16 are now pending in the application. Claims 1-16 stand rejected under 35 U.S.C. §103(a). The Examiner is respectfully requested to reconsider the claims and withdraw the rejections in view of the foregoing amendments and the remarks contained herein.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bond, Jr. (U.S. Patent 4,762,000) in view of Hitchcock (U.S. Patent 5,829,153). This rejection is respectfully traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Bond, Jr. '000 discloses a fluid level indicating apparatus that includes a cylinder and piston positioned within a fluid reservoir. The piston is joined to a quadrant shaped indicator plate by an interconnecting link. The level of the fluid positions the piston so that the interconnecting link moves the indicator plate about a pivot to align a fixed pointer with indicator markings on the plate. The interconnecting link passes through a

fill pipe from the reservoir to the indicator plate, the indicator plate being pivotally mounted at the top of the fill pipe. A cap for the fill pipe is pivotally mounted to the top of the fill pipe. Neither element is removable from the fill pipe, nor are the cap and interconnecting link fixed connected. Bond, Jr. does not disclose that the tube for receiving the indicator rod has a radially outwardly projecting flange as required by the independent claims.

Hitchcock '153 discloses a lockable cap assembly, having a fixedly attached dip stick, for a fill and/or guide tube. The cap assembly has an exterior handle for grasping, a connecting body for fitting within an upper end of the fill tube, and a gasket for forming a seal between the cap and an upper end of the fill tube.

It is inappropriate to combine the teachings of Bond, Jr. '000 and Hitchcock '153 because the disclosed devices operate in fundamentally different ways, and modifying Bond, Jr. '000 in the manner taught by Hitchcock '153 would fundamentally change the principle of operation of Bond, Jr. '000. Bond, Jr. '000 operates on the principle that the cap of the fill pipe pivots freely to release the indicator plate, which is also pivotally and permanently mounted within the fill pipe. None of the level indicator mechanism is removed or detached from the fill pipe. The cap assembly of Hitchcock '153 requires complete removal from the fill tube, and due to the close conformation of the connecting body with the fill tube, could not be pivoted as disclosed by Bond, Jr. '000.

Even if the references were taken in combination, however untenable, Bond, Jr. '000 and Hitchcock '153 do not reach the claims. In particular, claim 13, as amended, requires a seal formed between the stopper and an inner surface of the tube. Bond, Jr. '000 and Hitchcock '153 do not disclose this limitation. Therefore, withdrawal of the

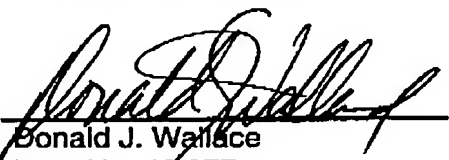
rejection of the claims over the combination of Bond, Jr. and Hitchcock, and reconsideration and reexamination of the claims, is respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 944-6522.

Respectfully submitted,

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